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Subpart C sets forth how the Department will evaluate tribal applications for a two-part Secretarial Determination under Section 2719, which provides an exception for gaming to occur on off-reservation trust lands if the Secretary, after consultation with appropriate state and local officials and officials of nearby tribes, determines that a gaming establishment would be in the best interest of the tribe and its members and would not be detrimental to the surrounding community. The regulation also sets forth how such consultation will be conducted, articulates the factors the Department will consider in making the two-part determination, and gives the governor of the state where the gaming activity is to take place up to one year, with an additional 180-day extension at either the governor's or applicant tribe's request, to concur in a Secretarial two-part determination.

Subpart D clarifies that the rule does not disturb existing written opinions made by the BIA or the NIGC.

The BIA first published proposed regulations to implement Section 20 on September 14, 2000. On January 28, 2002, the Bureau published a notice to correct the effective date section in the proposed rule. In March and April of 2006, the Department held a series of tribal consultation meetings on the development of proposed regulations to establish standards for implementing Section 2719. On October 5, 2006, the Bureau published a new proposed rule to address all exceptions contained in Section 2719 in order to explain to the public how the Department interprets these exceptions. On December 4, 2006, the Bureau published a notice to extend the comment period and make corrections concerning the new proposed rule. On January 17, 2007, the Bureau published a notice to reopen the comment period for the new proposed rule. The comments received in 2006 and 2007 were considered in the drafting of the final rule.

The BIA is the only federal agency authorized to acquire land into trust for the federally recognized tribes and to recommend approval of tribal applications under 25 CFR Part 151 and Section 20.

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